IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 4015 of 2007(C)

CRMP.2070/2007 of D.C. & SESSIONS COURT,KOLLAM
CRIME NO.429 OF 2007 OF KOTTARAKKARA POLICE STATION

.....

: PETITIONER/ACCUSED

---

1. CHANDRASEKHARA PILLAI,
   KRISHNA KRIPA, PALLIKKAL,
   KOTTARAKKARA.

2. RAJASEKHARA PILLAI,
   VIJAY BHAVAN, EDAMULAKKAL, ANCHAL.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)

RESPONDENTS: STATE & COMPLAINANT

---

1. STATE OF KERALA REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   KOTTARAKKARA POLICE STATION,
   KOTTARAKKARA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4015 of 2007

Dated this the 13th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. They are son-in-law of the defacto complainant and brother of the son-in-law of the defacto complainant. The crux of the allegations is that on 23.5.07 at 7 p.m, the accused persons along with two others trespassed into the house of the defacto complainant and attacked the defacto complainant, his son and his employee with dangerous weapons. The defacto complainant suffered fairly serious injuries. The incident took place at 7 p.m and at 7.45 p.m the injured was at hospital and had narrated to the doctor the alleged cause as assault by the son in law. F.I statement was registered when the defacto complainant was undergoing treatment on 29.05.2007 only. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. He submits that actually a different incident had taken place on 22.5.07 and apprehending that action may be taken in respect of that incident in which the son of the defacto complainant is the aggressor, the present false allegations have been raised. Actually the incident had taken place on 22.05.07

and no incident at all had taken place on 23.05.07. Both the petitioners are well employed. Arrest and incarceration is likely to affect the prospectus of their continuing in employment. In these circumstances it is prayed that directions under Section 438 Cr.P.C in favour of the petitioner may be issued.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious and grave. Father-in-law/defacto complainant was attacked at his house with dangerous weapons. Fairly serious injuries have been caused to him. The wound certificate clearly suggests that the injuries were suffered on 23.05.07 only and it is unlikely that having suffered the injuries on the previous date, the defacto complainant would have waited for one day to go to the doctor. Whatever may have happened on the previous day, that has no bearing whatsoever on the facts in controversy in the present case, it is submitted. In these circumstances it is prayed that anticipatory bail may not be granted to the petitioners. They may be directed to resort to the ordinary and normal course of appearing before the investigator or the learned Magistrate and seek regular bail.

4. I find merit in the opposition of the learned Public Prosecutor. I have already referred to the skeletal facts. A more detailed reference to facts or an attempt to resolve the facts in

controversy is not necessary at all. I am satisfied that there is no justification in the prayer to invoke the extraordinary equitable discretion under Section 438 Cr.P.C. The petitioners must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. They must then seek bail.

5. This bail application is, in these circumstances, dismissed but I may hasten to observe that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-